

Remarks

By this Amendment, claim 1 has been amended, claim 24 has been withdrawn, and claims 1 – 23 remain pending. Claim 1 has been amended to more clearly define that which Applicants consider to be their invention. Support for the amendment can be found in the Specification at least at page 7, lines 20 - 21. Accordingly, no new matter has been introduced by this Amendment.

Election/Restriction

The Examiner required restriction under 35 U.S.C. 121 with group I being claims 1 – 23, drawn to a bilayer laminate personal care article and group II being claim 24, drawn to a method of using the bilayer laminate personal care article. Applicants elect group I with traverse.

The Prior Art Rejections Under 35 U.S.C. §§ 102 and 103

The Examiner has rejected claims 1, 5 – 7, and 14 – 17 under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 5,733,628 to Pelkie ("628"). Claims 2 – 4 stand rejected under 35 U.S.C. 103(a) as being unpatentable over '628 in view of United States Patent No. 4,863,779 to Daponte ("779"). Claims 8 – 13 stand rejected under 35 U.S.C. 103(a) as being unpatentable over '628. Claims 18 and 19 stand rejected under 35 U.S.C. 103(a) as being unpatentable over '628 in view of United States Patent No. 5,853,638 to Han ("638"). Claims 20 – 22 stand rejected under 35 U.S.C. 103(a) as being unpatentable over '628. Claim 23 stands rejected under 35 U.S.C. 103(a) as being unpatentable over '628 in view of '638 and '779.

The present claims are directed to a bilayer laminated personal care article comprising: an apertured film layer having a smooth side and a rough side; and an absorbent layer, wherein the absorbent layer is laminated to the smooth side of the apertured film layer, the article is loaded with a skin care composition, and the article is useful for providing skin care benefits. See claim 1.

The Examiner has rejected claims 1, 5 – 7, and 14 – 17 as being anticipated by '628. Applicants respectfully submit that this rejection has been overcome. Rejections under 35

USC §102 are proper only when the claimed subject matter is identically disclosed or described in the prior art. In re Marshall, 198 USPQ 344 (CCPA 1978). In other words, to constitute an anticipation, all material elements recited in a claim must be found in one unit of prior art. Id. The '628 patent does not disclose or describe a bilayer laminate that is loaded with a skin care composition. As the '628 patent does not teach or suggest a skin care composition (a material element recited in the present claim), the patent can not anticipate the present claims. Applicants respectfully request withdrawal of the rejection.

The Examiner has also rejected the present claims as obvious under 35 U.S.C. 103(a) over '628, '628 in view of '779, and '628 in view of '638. Applicants respectfully disagree with this rejection. The '628 patent is drawn to articles that are useful for diapers, health care garments and materials, tissue, and a variety of industrial products. There is no teaching or suggestion of an article that is loaded with a skin care composition and is useful for providing skin care benefits. The '779 patent is drawn to a material that is suitable for diapers, health care garments and materials, tissue, and a variety of industrial products. The '779 patent does nothing to make up for the deficiencies in the teachings of the '628 patent with respect to an article that is loaded with a skin care composition and is useful for providing skin care benefits. The '638 patent teaches a porous film that is useful for the manufacture of disposable diapers, water-proof clothing, packing materials, medical supplies, and other applications. The '638 patent does nothing to make up for the deficiencies in the teachings of the '628 patent and the '779 patent with respect to an article that is loaded with a skin care composition and is useful for providing skin care benefits.

The Examiner indicated in the office action that the '628 patent teaches resiliency and the bond strength of the article are related to the compression of the article during lamination. The Examiner concluded that it would be obvious to one having ordinary skill in the art to determine the optimum value of these properties through routine experimentation. Applicants respectfully disagree. There is no teaching or suggestion in the '628 patent on how to measure bond strength. The patent does not teach what range of bond strengths may be obtained. Nor does the patent teach or suggest useful ranges of bond strength for any applications. Applicants have identified and taught a method for measuring bond strength. They have further identified a range of bond strengths that are useful for articles that are utilized to provide skin care benefits.

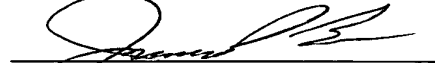
Applicants respectfully submit that none of the references cited by the Examiner, nor the combination of the references teaches or suggests the present invention. Accordingly, Applicants respectfully request withdrawal of these rejections.

Conclusion

Applicants believe that the foregoing presents a full and complete response to the outstanding Office Action. An early and favorable response to this Amendment is earnestly solicited. If the Examiner feels that a discussion with Applicants' representative would be helpful in resolving the outstanding issues, the Examiner is invited to contact Applicants' representative at the number provided below.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 10-0750/JBP-566/EMH.

Respectfully submitted,



James P. Barr
Reg. No. 32,882
Attorney for Applicants

Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003
(732) 524-2826